

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 19, 2021

1:01 p.m.

MEMBERS PRESENT

Representative Josiah Patkotak, Chair
Representative Grier Hopkins, Vice Chair
Representative Zack Fields
Representative Calvin Schrage
Representative Sara Hannan
Representative George Rauscher
Representative Mike Cronk
Representative Ronald Gillham
Representative Tom McKay

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 22

"An Act relating to shared animal ownership; and relating to the sharing and sale of raw milk and raw milk products."

- MOVED HB 22 OUT OF COMMITTEE

HOUSE BILL NO. 98

"An Act relating to forest land use plans; relating to forest land use plan appeals; relating to negotiated timber sales; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 22

SHORT TITLE: SHARED ANIMAL AND RAW MILK/PRODUCTS

SPONSOR(S): REPRESENTATIVE(S) TARR

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	CRA, RES
03/30/21	(H)	CRA AT 8:00 AM BARNES 124
03/30/21	(H)	Heard & Held

03/30/21	(H)	MINUTE (CRA)
04/06/21	(H)	CRA AT 8:00 AM BARNES 124
04/06/21	(H)	Moved HB 22 Out of Committee
04/06/21	(H)	MINUTE (CRA)
04/07/21	(H)	CRA RPT 6DP 1NR
04/07/21	(H)	DP: MCCARTY, DRUMMOND, PRAX, MCCABE, HANNAN, SCHRAGE
04/07/21	(H)	NR: PATKOTAK
04/16/21	(H)	RES AT 1:00 PM BARNES 124
04/16/21	(H)	Heard & Held
04/16/21	(H)	MINUTE (RES)
04/19/21	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 98

SHORT TITLE: FOREST LAND USE PLANS; TIMBER SALES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	RES, FIN
03/12/21	(H)	RES AT 1:00 PM BARNES 124
03/12/21	(H)	Heard & Held
03/12/21	(H)	MINUTE (RES)
03/19/21	(H)	RES AT 1:00 PM BARNES 124
03/19/21	(H)	<Bill Hearing Canceled>
04/14/21	(H)	RES AT 1:00 PM BARNES 124
04/14/21	(H)	Heard & Held
04/14/21	(H)	MINUTE (RES)
04/19/21	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE GERAN TARR

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As the prime sponsor, provided introductory remarks on HB 22.

CHRISTINA CARPENTER, Director

Division of Environmental Health

Department of Environmental Conservation (DEC)

Anchorage, Alaska

POSITION STATEMENT: During the hearing on HB 22, answered a question about the bill.

TIM DABNEY, Acting State Forester/Acting Director

Division of Forestry

Department of Natural Resources (DNR)

Anchorage, Alaska

POSITION STATEMENT: During the hearing on HB 98, spoke on behalf of the administration and answered questions related to the bill.

CHRISTOPHER ORMAN, Assistant Attorney General
Natural Resources Section
Civil Division (Juneau)
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 98, answered questions on behalf of the administration regarding the bill.

ACTION NARRATIVE

[1:01:06 PM](#)

CHAIR JOSIAH PATKOTAK called the House Resources Standing Committee meeting to order at 1:01 p.m. Representatives McKay, Fields, Cronk, Schrage, Gillham, Hannan, Rauscher, Hopkins, and Patkotak were present at the call to order.

HB 22-SHARED ANIMAL AND RAW MILK/PRODUCTS

[1:01:51 PM](#)

CHAIR PATKOTAK announced that the first order of business would be HOUSE BILL NO. 22, "An Act relating to shared animal ownership; and relating to the sharing and sale of raw milk and raw milk products."

[1:02:27 PM](#)

REPRESENTATIVE GERAN TARR, Alaska State Legislature, as prime sponsor, provided introductory remarks on HB 22. She expressed her excitement regarding how much support there is for the bill. She offered to answer any questions on the bill and said the forthcoming amendment by Representative Rauscher will provide further discussion on the bill.

[1:03:07 PM](#)

REPRESENTATIVE FIELDS stated that he visited a farm and has returned with some tasty cheese for committee members to try.

[1:03:36 PM](#)

REPRESENTATIVE RAUSCHER moved to adopt Conceptual Amendment 1, which read:

Page 2, line 6
Delete item (c)
Re-letter the rest accordingly

[1:03:43 PM](#)

CHAIR PATKOTAK objected for purposes of discussion.

[1:03:49 PM](#)

REPRESENTATIVE RAUSCHER explained that Conceptual Amendment 1 comes from trying to understand what HB 22 is attempting to do, which, in his opinion, is to ensure that raw milk is available for people to purchase. He said Conceptual Amendment 1 points out that the language on page 2, line 6, "(c) A person may not sell raw milk or a raw milk product", is foreign to what is trying to be accomplished with the bill. Therefore, the amendment would delete (c) and re-letter the rest accordingly.

[1:04:43 PM](#)

REPRESENTATIVE TARR spoke to what would be the effects of Conceptual Amendment 1. She provided a history to put things into context. She related that in 2017 she learned about a movement called Food Freedom when she met a North Dakota state representative who had introduced a food freedom bill in that state's legislature. In talking with the representative about the bill, she became very interested in bringing this to Alaska. Conceptually it is about shortening the supply chain and making it easier for consumers to get products directly from producers, ranchers, and farmers. She said she filed House Bill 217, which would have expanded the opportunity for raw milk products as well as animal products. However, she continued, at that time the Department of Environmental Conservation (DEC) expressed concern that this much more expansive option would cause an increase in foodborne illness outbreaks. The original fiscal note provided by DEC for the bill projected about \$1 million per year to hire staff to investigate and respond to DEC's anticipated increase in foodborne illnesses. Since then, Representative Tarr specified, multiple states - North Dakota, Wyoming, Utah, to name a few - have expanded these policies and have more fully adopted this food freedom policy. Those states are not seeing increases in foodborne illnesses, she related, and therefore she believes Alaska could accomplish this safely.

REPRESENTATIVE TARR added that in recognition of Alaska's fiscal situation, the bill currently before the committee is much more modest in what it is attempting to accomplish. She explained that when there has been tension between public health and safety and increasing opportunity, she has tried to find ways to move forward and prove the safety. One example is food hubs, which are online sales opportunities for farmers and producers. When food hubs were first proposed [DEC] was very concerned, she said, so only one food hub was allowed in Alaska as a pilot program during the original year. It was successful and proved it could be done safely. The food hub concept has now been expanded and there are multiple food hubs around Alaska, increasing the opportunity for consumers to get these products and using online sales as the platform for making those purchases. So similarly, she pointed out, it was decided to pick a more modest step forward in this bill.

1:08:06 PM

REPRESENTATIVE TARR explained that HB 22 would put the existing herd share program into statute. Strengthening this program by moving it from regulation into statute would provide certainty to the farmers that it will exist in perpetuity. Currently the herd share program is limited to fluid milk products, she said, [and HB 22 would provide] expansion to value-added products like cheese, ice cream, butter, kefir, and other products that a [producer] wants to make available.

REPRESENTATIVE TARR stated she finds herself in the position of saying she supports what Representative Rauscher is suggesting and thinks it can be accomplished safely in Alaska. She said she wants HB 22 to move forward and be passed by the legislature because it would provide a new business opportunity in Alaska at a time when people are struggling, and the state is recovering economically. The bill would have immediate positive business and consumer impacts for Alaskans, she noted, so she doesn't want to do anything that might slow the bill down. She said she is therefore cautiously opposing the amendment right now with the understanding that the conversation will be continued and that she will continue working with the governor who personally called her last week about the legislation. Representative Tarr related that the governor is interested in this legislation and even in the more expansive opportunity, but she thinks the best option today is to move forward with what is known and make sure there are no unintended consequences. She emphasized that she is very committed to working with anyone who is interested in

food freedom more broadly. She said it doesn't have to be her who is working on this, she would be happy to share the legislation that was originally drafted with any other member and support that member in working on it too.

1:10:25 PM

REPRESENTATIVE MCKAY requested clarification on whether Representative Tarr is in favor of Conceptual Amendment 1.

REPRESENTATIVE TARR replied she is opposing the amendment today because she doesn't want to have any unintended consequences that would slow down HB 22. She said she has talked with the amendment sponsor and has committed to continue working with him. If this is realistic and feasible in this legislature, then, yes, she would take the opportunity to strengthen Alaska's agriculture. It isn't about her idea, she added, but rather about ensuring that [the bill] keeps moving forward.

CHAIR PATKOTAK invited the director of DEC's Division of Environmental Health to provide an understanding of what Conceptual Amendment 1 might change as far as the administrative side of things for raw milk and the industry as a whole.

1:11:37 PM

CHRISTINA CARPENTER, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), stated she would need to look at the bill and revisit the fiscal analysis since it was done a few years ago. She said DEC is committed to working collaboratively on this issue and offered her appreciation for the sponsor's willingness to engage with DEC.

1:12:46 PM

REPRESENTATIVE HANNAN said she appreciates Representative Rauscher's attempt to broaden the scope, but as stated by the bill sponsor, this incremental change to what currently exists of herd sharing from the milk's fluid state to cheeses and such, keeps it within herd sharing. She recalled that the committee looked at some legislation last year about a bigger legalization of raw milk products and it quickly got complex financially and statutorily. While she would like to look at things that would support a bigger dairy industry, including raw milk as a part of that, she said she thinks it would derail the proposed bill's passage and she would like to see the bill move forward now. She pointed out that the bill's fiscal note is zero, the bill

has no agency opposition or concern, and the bill has very broad support in both bodies. She further recalled that last year when the legislature looked at cutting the dairy inspector in the budget, it was learned that there are many federal regulations about what a state can do to sell milk. She said herd sharing is not a work-around, but is an avenue permitted under the law that the state can expand on and prove up. She said she therefore will oppose Conceptual Amendment 1.

[1:15:17 PM](#)

REPRESENTATIVE RAUSCHER offered his appreciation for the discussion but said he doesn't see anywhere in HB 22 that says selling raw milk is acceptable. He continued:

So, this is basically saying that now you're confining something that has really nothing to do with the bill at all. It steps outside of what we're talking about, which is herd sharing. So, I'm not saying this changes it to allowing, and nowhere in the bill does it say allows us to sell raw milk to, or ... a raw milk product. All of a sudden, this language appears where it says we can't, nowhere did we say we can, and nowhere are we talking about doing that. But here we just come out of the blue and we say a person may not sell raw milk or raw milk product. And so you see why I don't understand why it fits, why I've drawn the amendment. To what you said and to what I've heard from the maker of the bill, and I have also by the way co-sponsored this bill from its inception when it was first planted into the House, and I did in the years before only because I would like to see the bill move forward also. But I really don't understand why we start ... to make laws against things that have nothing to do with what we're talking about. I'll remove it, but I think that discussion needs to happen because I don't know why you want to make other things illegal when we're just trying to talk about something we'd like to see illegal, which is why I'll withdraw it at this time. But I would like to at least find out a better understanding of why.

CHAIR PATKOTAK clarified Representative Rauscher had withdrawn Conceptual Amendment 1 to HB 22.

[1:17:48 PM](#)

REPRESENTATIVE HOPKINS moved to report HB 22 out of committee with individual recommendations and the accompanying [zero] fiscal notes.

[1:18:11 PM](#)

CHAIR PATKOTAK objected for purposes of discussion.

REPRESENTATIVE TARR thanked the committee for its interest and support of HB 22. She restated her commitment to Representative Rauscher to continue discussing the amendment he proposed.

[1:18:45 PM](#)

CHAIR PATKOTAK removed his objection. There being no further objection, HB 22 was reported out of the House Resources Standing Committee.

[1:19:16 PM](#)

The committee took an at-ease from 1:19 p.m. to 1:23 p.m.

HB 98-FOREST LAND USE PLANS; TIMBER SALES

[1:23:51 PM](#)

CHAIR PATKOTAK announced that the final order of business would be HOUSE BILL NO. 98, "An Act relating to forest land use plans; relating to forest land use plan appeals; relating to negotiated timber sales; and providing for an effective date."

[1:25:07 PM](#)

REPRESENTATIVE CRONK moved to adopt Amendment 12 to HB 98, [labeled 32-GH1607\A.24, Bullard/Radford, 4/19/21], which read:

Page 1, following line 3:

Insert a new bill section to read:

"* Section 1. The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. It is the intent of the legislature that, when deliberating whether a timber sale is in the best interests of the state under AS 38.05, the commissioner of natural resources consider, in addition to any factors required by statute, the extent to which the sale may provide

(1) economic benefits resulting from

(A) the local manufacture of high value-added wood products; and

(B) local processing of the timber undertaken by the purchaser, including the local manufacture of other value-added wood products;

(2) the creation and maintenance of a stable local job base; and

(3) other foreseeable benefits to the state and local economy."

Page 1, line 4:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

1:25:10 PM

CHAIR PATKOTAK objected for purposes of discussion.

REPRESENTATIVE CRONK explained his reasoning for Amendment 12. He noted HB 98 would repeal AS 38.05.123 and replace it with the language in the bill on page 6, [paragraphs 1-6 on lines 4-10]. He stated that this language is vague and therefore he would like to include some intent language to provide clarification.

1:25:53 PM

REPRESENTATIVE HOPKINS asked which amendment this would supersede to remove from the committee packet.

CHAIR PATKOTAK stated Representative Rauscher will clarify which proposed amendment will be deleted if Amendment 12 is passed.

REPRESENTATIVE HOPKINS, regarding the deliberations on whether a timber sale would be in the best interest of the state, inquired if it would be for the best interest finding that the commissioner is charged with doing before moving forward on a timber sale, and that the legislature would be intending for these to be included in the department's efforts.

REPRESENTATIVE CRONK replied yes.

REPRESENTATIVE HOPKINS said he strongly supports this language and these goals. He asked why not put them in the bill so that they are required to be looked at, whereas intent language is not nearly as strong if the goal is to support local

manufacturing products. He said he has in this in his district as well and wants to see them succeed.

REPRESENTATIVE CRONK responded that it was discussed with the commissioner, and it was felt that this intent language clarifies paragraphs (1-6) that have been added.

REPRESENTATIVE HOPKINS said he will probably support the amendment in the end, but he thinks the clarification could be made clear by including it in statute within the bill and that that would be a better way.

[1:27:47 PM](#)

REPRESENTATIVE FIELDS stated he supports this intent, but he also has some amendments on local manufacturers, local hire, and local contractors. He said he hopes this can be done, as well as go a little further.

[1:28:14 PM](#)

REPRESENTATIVE HANNAN said she supports this intent language, but wishes it were in statute as it is currently. She noted [the proposed] intent language is very similar to AS 38.05.123(e), which is being repealed in this bill because it is only to these negotiated sales and the negotiated sales is being changed in location in the statute. The language that requires local manufacturing analysis and local job base is being deleted, and she continues to think it's a mistake for the bill to go forward and not keep the local use provisions that already exist in law. She will support the amendment with the legislative intent, she continued, but hopes it can still be put in the statute because it does not hurt to underscore in two ways that the goal, the use by Alaskans for jobs and personal use, is always of substantial value to Alaskans and the reasons there have been timber wars. [The committee] wants to ensure the timber is available for Alaskans to be used in Alaska for their homes, jobs, and businesses. She reiterated she would like to see it in statute but will support the intent language.

[1:29:50 PM](#)

CHAIR PATKOTAK requested Mr. Dabney of the Department of Natural Resources or Mr. Orman of the Department of Law to comment on the effects of Amendment 12.

[1:30:01 PM](#)

TIM DABNEY, Acting State Forester, Acting Director, Division of Forestry, Department of Natural Resources (DNR), responded that the intent language proposed by Representative Cronk is good. He said it is aligned with DNR's support of Alaska jobs. Also, he continued, it is aligned with at least three of the six factors that need to be considered by the commissioner at [AS 38.05.110(c)], specifically local timber markets, domestic markets, and the local economy about a sale.

1:31:09 PM

REPRESENTATIVE HOPKINS inquired whether Representative Rauscher was going to talk about what amendment would be removed from the committee's consideration. He observed that Amendment 1 talks specifically about firewood, a value-added product, and he is assuming it is Amendment 1 that would be removed, yet there is no mention of firewood for any type of use in Amendment 12.

CHAIR PATKOTAK offered his belief that Amendments 1 and 2 would not be offered if Amendment 12 is passed.

REPRESENTATIVE RAUSCHER responded that in reading Amendment 12, he is considering removing Amendment 2. Regarding removing Amendment 1, he said he would refer to Representative Cronk as to whether he would mind a conceptual amendment to a word in Amendment 12.

CHAIR PATKOTAK asked what Representative Rauscher's specific conceptual amendment would be to Amendment 12.

1:33:00 PM

The committee took a brief at-ease.

1:34:23 PM

REPRESENTATIVE CRONK summarized his explanation of Amendment 12. He said the amendment's intent language is to add protections in some areas that are vague. He suggested that if Amendment 12 is adopted, that Amendment 1 and Amendment 2 be presented.

CHAIR PATKOTAK related that during the at-ease the committee discussed that Legislative Legal Services could clean up the different iterations of amendments to make them into a concise committee substitute (CS), and that was the route agreed upon by the amendment sponsors.

[1:35:00 PM](#)

CHAIR PATKOTAK removed his objection to Amendment 12. There being no further objection, Amendment 12 was adopted.

[1:35:15 PM](#)

REPRESENTATIVE RAUSCHER moved to adopt Amendment 1, [labeled 32-GH1607\A.23, Radford, 4/17/21], which read:

Page 1, following line 3:

Insert a new bill section to read:

"* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. It is the intent of the legislature that the state increase the areas available for personal use firewood while ensuring that the additional areas provide equitable acreage across the state in reasonable proximity to population areas and prioritize road access."

Page 1, line 4:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

[1:35:18 PM](#)

CHAIR PATKOTAK objected for purposes of discussion.

REPRESENTATIVE RAUSCHER explained Amendment 1 would add intent language that the legislature agrees the state would increase areas available for personal use firewood while ensuring that additional areas provide equitable acreage across the state in reasonable proximity to population areas. He said the reason for that is because providing sales where people must drive 100 miles to get to it provides no service to the people, so this basically localizes it.

[1:36:11 PM](#)

REPRESENTATIVE HOPKINS asked whether there is another place included [in the bill] for incentivizing commercial interest firewood sales. He observed that the committee packet includes a letter of support from Aurora Energy Solutions, which is the

wood fired kiln in Fairbanks where very small mom and pop commercial entities bring their cut wood from various areas and timber sales for drying.

REPRESENTATIVE RAUSCHER asked whether Representative Hopkins is offering a conceptual amendment.

REPRESENTATIVE HOPKINS replied not yet. He stated that while the committee is incentivizing sales for personal use firewood, he is wondering whether there is also the opportunity for commercial use of these small firewood sales.

REPRESENTATIVE RAUSCHER responded he understands the intent and where Representative Hopkins is going. He said the idea behind this is for much smaller use because they are usually left out of the equation. He doesn't have enough research to understand exactly where Representative Hopkins wants to go with this, he continued, but understands the logic. Because he doesn't know how much of a detrimental position [commercial firewood users] are in right now, it would be hard for him to commit.

REPRESENTATIVE HOPKINS stated he thinks it could easily be done on line 6 of the amendment, but he will let it pass given his intent is slightly different than the amendment sponsor's.

CHAIR PATKOTAK requested Mr. Dabney or Mr. Orman to comment on what Amendment 1 would look like administratively.

MR. DABNEY noted that Amendment 1 is intent language and said the Division of Forestry does everything it can to meet the firewood needs of Alaskans. The more citizens are encouraged to contact their local forestry offices, he advised, the better the division can provide well distributed firewood cutting areas. For example, the division currently has about 10 firewood areas in the Matanuska-Susitna (Mat-Su) Valley. To more evenly distribute firewood areas so people don't have to drive as far, the division is adding two more areas this summer. He stated that the division will continue providing firewood to Alaskans to heat their homes. The division encourages legislators and local people to visit the division's offices or check online and let the division know what it can do to provide that important service to Alaskans.

[1:40:14 PM](#)

CHRISTOPHER ORMAN, Assistant Attorney General, Natural Resources Section, Civil Division Juneau Office, Department of Law (DOL),

advised, when thinking about intent language, to consider how well it merges and marries with the substantive provisions of the statutes. He cautioned that there might be some hiccups with Amendment 1 a little more than with Amendment 12, but that he would defer to the committee.

[1:41:03 PM](#)

REPRESENTATIVE RAUSCHER summarized regarding Amendment 1. He said the current administration is doing a fantastic job of providing firewood and timber sales for people who are requesting them, but he doesn't agree that it's been that way in the past. So, he continued, the intent language is for 10-15 years from now when this administration is long gone, and the intent of the bill's language is trying to be understood.

[1:42:00 PM](#)

The committee took a brief at-ease.

[1:42:16 PM](#)

CHAIR PATKOTAK removed his objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

[1:42:30 PM](#)

REPRESENTATIVE RAUSCHER said he would remove Amendment 2, [labeled 32-GH1607\A.22, Radford, 4/17/21].

CHAIR PATKOTAK explained that Amendment 2, in the committee packet, would not be offered.

[1:42:46 PM](#)

REPRESENTATIVE HOPKINS moved to adopt Amendment 3, [labeled 32-GH1607\A.20, Radford, 4/16/21].

Page 6, line 8:
Delete "and"

Page 6, following line 8:
Insert new paragraphs to read:
"(6) detrimental effects on the surrounding environment, including erosion, drainage, and riparian stability;
(7) effects on wildlife habitat; and"

Renumber the following paragraph accordingly.

[1:42:49 PM](#)

CHAIR PATKOTAK objected for purposes of discussion.

REPRESENTATIVE HOPKINS explained his reasons for proposing Amendment 3. He pointed out that all the criteria in the best interest findings of the state are economic in nature. He said he believes a more wide-ranging look at the impacts of sales should be taken than simply an economic impact. Amendment 3 would get to some of that, he continued, such as concerns about riparian stability, which is the banks along rivers and streams that are incredibly sensitive; erosion impacts from sustainable harvesting, which is the ground qualification and stability; as well as effects on wildlife habitat, including fish given that fewer than half of Alaska's anadromous streams and spawning grounds are currently mapped and this could be one of the only ways to have an opportunity to ensure strong salmon habitat. Representative Hopkins advised that this does not stop a forest sale from happening but could just move the sale back a few feet from the river or stream banks to ensure maintenance of that habitat. The state has dwindling salmon streams and fishing grounds, he noted, and this is critical to maintaining that while still allowing the process to move forward at an expedited rate, which is the goal of HB 98 for timber sales and harvests.

CHAIR PATKOTAK requested Mr. Dabney provide an overview of the administrative effects of Amendment 3.

[1:44:54 PM](#)

MR. DABNEY responded that looking at the detrimental effects on surrounding environment and the effects on wildlife habitat are already in statute under the Forest Resources and Protection Act (FRPA) at AS 41.17 and its regulations [in the Alaska Administrative Code (AAC)] at Section 11 AAC 95. He specified that AS 41.17.115, management of riparian areas, specifically addresses the protection measures for riparian issues, such as erosion, drainage, and stability. He further specified that AS 41.17.098 affords wildlife habitat protections and gives the Alaska Department of Fish and Game (ADF&G) due deference on state lands for wildlife habitat. He stated that the division considers these items as part of determining any potential adverse environmental impacts of a timber sale. He offered his belief that Amendment 3 probably isn't necessary in this

location under 110(c) because 110(c) looks at the type of provision or contract that would be used to sell timber. So, he advised, 110(c) is more about the market and what kind of timber sale contract the division is going to use as opposed to considerations associated with environmental impacts.

CHAIR PATKOTAK asked whether it is fair to say that if Amendment 3 is passed, then it wouldn't necessarily considerably change how the commissioner administers management plans because it is almost in duplicity to something that is mentioned somewhere else.

MR. DABNEY answered that both the best interest finding and the forest land use plan (FLUP) must adhere to FRPA. He said he therefore doesn't believe it necessary to include [Amendment 3] as an item to consider because it wouldn't be relevant to the commissioner's decision for which type of contract to use.

CHAIR PATKOTAK inquired whether Amendment 3 would considerably hamper the commissioner's ability to implement a FLUP.

MR. DABNEY replied no, it would not impact the department's ability to adopt a FLUP.

[1:49:17 PM](#)

REPRESENTATIVE FIELDS spoke in support of Amendment 3. He said he has been thinking about areas where timber sales could occur, and maybe in some areas there aren't competing uses and maybe in some areas there are. Riparian habitat certainly matters when there is a jet boat operator taking fishermen upriver to fish on a creek where water quality has an impact on production and therefore local jobs. In areas where tourism is important the viewshed must be taken into account. He stated he hears the department saying one could argue that this isn't necessary, however if the committee is going to pass this bill, then it's a good thing to be responsive to some of the citizens the committee has heard from about these competing uses and ensure there's a balance. It's a matter of emphasis, he continued, and it shows that the committee respects what can sometimes be competing interests.

[1:50:28 PM](#)

The committee took an at-ease from 1:50 p.m. to 1:52 p.m.

[1:52:51 PM](#)

REPRESENTATIVE CRONK stated that part of HB 98 is a long overdue cleaning up of redundancies and, as the department said, Amendment 3 is redundant because there is already AS 41.17.115 and 41.17.098. Because the purpose was to clean this up and not have redundancies, he said he must oppose Amendment 3.

CHAIR PATKOTAK noted HB 98 is the administration's bill and said the purpose of his back-and-forth on Amendment 3 is that it doesn't gut or take away the intent of the bill from the administration's standpoint. He asked Mr. Dabney to clarify.

MR. DABNEY responded that the main point here is that the six factors [proposed for addition] under AS 38.05.110(c) are factors that the commissioner is to consider when determining what type of contract is going to be used to harvest the timber, not what types of environmental analysis are going to be done to make a determination for the best interest finding. These are very important aspects of FRPA, he said, and it is inherent that that's what the department is going to be considering and analyzing as part of the best interest finding. It's not really an item that would be appropriate, he continued. It's not going to make a difference whether it's a negotiated timber sale or a commercial timber sale in how the timber is harvested. Regardless of what the contract type is, the same protections are going to be afforded to the environment.

1:55:40 PM

REPRESENTATIVE HANNAN voiced her support of Amendment 3. She noted that in this cleanup the administration has repeatedly said that the idea is to consolidate the state's timber sales process from three sections of statute into one. The concern she has heard most from people about the bill, she related, is the lack of public process and the truncating of some appeals. Amendment 3 speaks to a couple of reasons that people frequently appeal, she said. It doesn't stop [the department] from the sales, and it might be a little bit awkward, but it says to anyone critical of this effort that those concerns about riparian habitat are affirmed. She pointed out that the appeals process is being shortened and put in one place instead of two. Amendment 3, she added, affirms that if state land is used for commercial harvest that noncommercial concerns have been considered. Representative Hannan agreed that FRPA and federal law require [the state] to do that but stated that putting it into Alaska statutes says [the state] is going to take that into account, because the most controversial timber sales are always

when they are close to communities and have multiple use demands on that forest habitat. It does not stop those sales from going forward and does not detract from the considerations the commissioner might have, she continued, but to people who are skeptical that this consolidation will leave them out it footnotes that their interests will be taken into account. She said she will therefore vote yes on Amendment 3.

[1:57:49 PM](#)

REPRESENTATIVE HOPKINS summarized his reasoning on Amendment 3. He said that in looking at trust and transparency in Alaska's process, the Forest Resources and Protection Act (FRPA) is in an entirely different title of statute, Title 41, versus Title 38, which is being dealt with today. The commissioner shall recognize fish habitat as the primary value in riparian areas and they'd work with the commissioner of ADF&G, he stated, but there is an entire offset of appeals opportunities for people who disagree or the agency to disagree. He referenced AS 41.17.098(f), "if a disagreement described in (e)," which is the due deference to ADF&G, "an officer of an agency may require reevaluation of the disagreement at a higher level." Many of the concerns expressed in emails about this bill, he related, also have to do with the public's interest in areas spoken to by Representative Fields, such as jobs and tourism entities and the opportunity to appeal based on concerns about habitat when they might not have had an opportunity before through AS 41.17.098. He pointed out that Amendment 3 is not adding an additional step of appeal. As stated by the department, he continued, Amendment 3 would not negatively impact the administration's goal and intent for HB 98. Representative Hopkins noted that the forest management plans are not always quickly updated with new information as that information is discovered. Amendment 3 would allow that flexibility as more anadromous streams are mapped, he continued, and would allow that new knowledge to play into those decisions going forward. It would not hamper the process, he stated, but simply add a level of protection to ensure the ability to have multiple uses in one area going forward sustainably.

[2:00:03 PM](#)

CHAIR PATKOTAK removed his objection to Amendment 3.

[2:00:10 PM](#)

REPRESENTATIVE CRONK? objected to Amendment 3.

[2:00:12 PM](#)

A roll call vote was taken. Representatives Fields, Hopkins, Hannan, Schrage, and Patkotak voted in favor of Amendment 3. Representatives McKay, Cronk, Rauscher, and Gillham voted against it. Therefore, Amendment 3 was adopted by a vote of 5-4.

[2:00:52 PM](#)

REPRESENTATIVE HOPKINS moved to adopt Amendment 4, [labeled 32-GH1607\A.19, Radford, 4/17/21], which read:

Page 7, lines 1 - 2:

Delete all material and insert:

"(e) A person may file only one appeal with the commissioner regarding a best interest finding and a decision to adopt a forest land use plan."

[2:00:55 PM](#)

CHAIR PATKOTAK objected for purposes of discussion.

REPRESENTATIVE HOPKINS explained Amendment 4 would keep it to one appeals process or step under the best interest findings (BIFs) and forest land use plans (FLUPs). He said Amendment 4 would allow an individual to appeal a BIF and/or a FLUP under one appeal under the Alaska Administrative Code (AAC), which would be the way the standard appeals process moves forward. The ability to develop these timber harvests would not be delayed, he stated, but full public interest and public transparency would be allowed by not eliminating the ability to appeal on a FLUP. As he sees it, he continued, this is in consort with the intent of the administration for this bill, which is to expedite the process for getting more timber to market, whether it's local or the trees are shipped somewhere. This doesn't slow that down, he reiterated, it simply does not eliminate an opportunity for Alaskans.

CHAIR PATKOTAK requested Mr. Dabney to provide an overview of what Amendment 4 would cause administratively.

[2:02:22 PM](#)

MR. DABNEY responded that the intent of HB 98 is to avoid having redundant appeals, and Amendment 4 would allow the continuation

of appeals on subsequent FLUPs. He offered his belief that Representative Hopkins' intent is to afford an opportunity for interested parties, typically those who live and recreate near harvesting areas, to have some influence at the forest land use plan stage, basically how the harvest is conducted. He stated that the Division of Forestry will continue its long history of working with the public to allow public input and comment at the FLUP stage. Working with commenters at the FLUP stage the Division of Forestry regularly modifies harvest units to address visual impacts as well as windthrow. He said his read of the amendment's language is that it does not quite meet the intent of Representative Hopkins because most of the appeals seem to come from groups and there are signatories of persons who are members of those groups. His interpretation of the amendment's language, he continued, is that a person who is a member of a group could appeal at the BIF stage, and then another member of the group could appeal at the FLUP stage, thereby having redundant appeals.

CHAIR PATKOTAK requested Mr. Orman's comment on Amendment 4.

[2:05:16 PM](#)

MR. ORMAN stated that Mr. Dabney covered most of the issues and concerns here. He explained that, currently, forest land use plans can be administratively appealed pursuant to AS 44.37.011. With [the change proposed in Amendment 4], he said, the apparent goal is that either the person can appeal the best interest finding or appeal the forest land use plan. But, as pointed out by Mr. Dabney the problem is that subsequent now, forest land use plans could still be appealed ostensibly because it seems as though the idea here is that the best interest finding is almost merging with this one forest land use plan. He noted that an issue not raised by Mr. Dabney is how to then track this. How does the Division of Forestry track that somebody appealed the best interest finding and ensure that that has already happened, and then the division would be saying "you're precluded now from appealing the forest land use plan because you appealed the best interest finding?" He referenced the example cited by Mr. Dabney and stated it almost then opens the door as well to the idea that not only will best interest findings still be appealed as HB 98 considers, but then that forest land use plans can be appealed. It just simply becomes who ends up filing and who then presents the appeal at a certain specific time. Some of the legal issues here, he summarized, are how it would be tracked, how it would be applied, the denial of an appeal, the process and showing by the department when an appeal is denied,

and then that determination decision. He said he understands the intent and the goal of the amendment, but that it raises a lot of issues that then become secondary to this language pursuant to appeal.

[2:07:43 PM](#)

REPRESENTATIVE SCHRAGE inquired about removing the best interest finding from the amendment language so that it just pertained to the forest land use plan. He asked how that would differ than what is proposed in the underlying bill, and how it would affect the number of appeals available to the forest land use plan.

MR. ORMAN responded that he will answer from a legal perspective and surmised that Mr. Dabney will want to respond from a policy component. He stated that the idea in HB 98 is that forest land use plans will not be administratively appealed, but best interest findings will remain appealable. So, he advised, if the provision about forest land use plans is removed [from Amendment 4], it somewhat mirrors what is the intent and the goal of HB 98. The difference is that HB 98 clearly articulates in Section 4(e) that forest land use plans are not appealable. He said he thinks the problem here would be that a person may file only one appeal with the commissioner regarding a best interest finding if that was it and was left to that. He further said he thinks there'd be some confusion about the forest land use plan and then its appeal without the section that's been drafted in the current bill of HB 98. He deferred to Mr. Dabney for further response.

REPRESENTATIVE SCHRAGE rephrased his question for Mr. Dabney. He asked whether currently, without implementation of HB 98, FLUPs can be appealed more than once or whether there is a limit of just once.

[2:10:11 PM](#)

MR. DABNEY answered that as part of the adoption process FLUPs can be appealed, there is an appeal period, and FLUPs are only eligible to be appealed once. He stated that each harvest unit has a FLUP - and here now he is talking about subsequent FLUPs to the BIF - and there is only one appeal period for each forest land use plan. So, he continued, a single forest land use plan could not be appealed by the same person multiple times.

REPRESENTATIVE SCHRAGE opined that this gets to his underlying concern with the bill, which is that he thinks there is value

with the FLUPs being appealable. He said he understands the department's concern that when the FLUPs aren't available to be produced at the same time as the best interest finding, then later they are subsequently produced and those then get appealed and it draws out the entire process. But, he reiterated, there is value in being able to appeal that FLUP. If Amendment 4 were to be amended to remove the verbiage about best interest finding, he stated, it would make him much more comfortable with this bill in allowing the appeal of the FLUPs to continue.

2:12:01 PM

REPRESENTATIVE RAUSCHER inquired whether the language "notwithstanding AS 44.37.011" means all that is still intact.

MR. DABNEY deferred to Mr. Orman for an answer.

MR. ORMAN replied that the "notwithstanding" language is confusing language and is something that is commonly used. The purpose of that and the reference to AS 44.37.011 is noting in total that the forest land use plans aren't appealable pursuant to AS 44.37.011. In general, the purpose of that entire clause is to say no administrative appeals for a forest land use plan.

REPRESENTATIVE RAUSCHER inquired whether all of 44.37.011 would be repealed.

MR. ORMAN responded, "No, absolutely not." He explained that all this phrase is doing is noting that these forest land use plans will not be appealable as far as the process that exists for administrative appeals under AS 44.37.011. He drew attention to Section 12 of HB 98 and pointed out that AS 44.37.011 is not part of the repeal provisions.

REPRESENTATIVE RAUSCHER offered his understanding that there basically is an appeals process in AS 44.37.011.

MR. ORMAN confirmed that AS 44.37.011 is the administrative appeal process for decisions that are made either by the director or the commissioner. There are two different ways that appeals can go, he said. With subsection (e) as drafted [on page 7, lines 1-2], an individual would not be able to administratively appeal a forest land use plan through the administrative process of AS 44.37.011.

2:15:17 PM

REPRESENTATIVE HOPKINS withdrew Amendment 4 and said he will work on clarifying that language with the department and any other committee members who want to help. He said he would bring the amendment up again later in the week at the chairman's discretion.

CHAIR PATKOTAK noted that [HB 98] would be considered again on Friday [4/23/21].

[2:15:50 PM](#)

REPRESENTATIVE HANNAN moved to adopt Amendment 5, [labeled 32-GH1607\A.18, Radford, 4/16/21], which read:

Page 7, line 27:

Delete "a new subsection"

Insert "new subsections"

Page 8, following line 1:

Insert a new subsection to read:

"(e) If the commissioner determines that additional analysis is necessary to complete the best interest finding for a sale under this section, the commissioner may require a prospective purchaser to retain and pay for the services of a contractor to assist the commissioner in evaluating the proposed sale and financial and technical data related to the proposed sale. The contractor shall be selected by the prospective purchaser from a list of consultants in forestry and timber economics provided by the commissioner. If the commissioner requires a prospective purchaser to retain the services of a contractor under this subsection, the commissioner shall determine the scope of the work to be performed by the contractor."

Page 9, line 3:

Following "38.05.115(c),":

Insert "and"

Delete ", and 38.05.123(g) "

[2:15:55 PM](#)

CHAIR PATKOTAK objected for purposes of discussion.

REPRESENTATIVE HANNAN explained Amendment 5 would take a piece that is being repealed in Section 12, AS [38].05.123(g), which

is negotiated sales, and which are currently restricted to domestic sales. She noted that HB 98 would repeal that area of statute because the bill is compressing both domestic and export sales into one area. However, she stated, she would like to carry over this current language in statute about negotiated sales that if the commissioner, in analyzing a sale, found that outside expertise was needed to evaluate whether it is in the best interest of the state to go forward with the negotiated sale, an outside contractor could be hired to do that analysis. That isn't the buyer of the timber, that is a timber economist or such, she added. Representative Hannan related that she has heard from the administration that this provision hasn't been used so it isn't needed. She posited that it hasn't been used because when looking at domestic negotiated sales it is clear whether there is a local concern that can buy the timber and has jobs for people. But, she continued, in now taking negotiated sales from being domestic use to being exportable, she foresees that finding the best interest of the state may require doing a more complex analysis. Amendment 5 would take the current language for domestic negotiated sales that is being repealed and keep it in the statutes as these sales are opened up, and thereby include the ability to hire a contractor - if the commissioner chooses. It is not a mandate, Representative Hannan pointed out, but would allow [outside expertise] to be hired and the purchaser is picking up the tab because that is the crux of it. The state could do this analysis, she continued, but it's a more complex analysis when looking at bigger sales, longer term, out of Alaska, and it must be ensured the state isn't being set up to have to pay to decide if it's in the state's best interest to go forward with the sale.

CHAIR PATKOTAK requested Mr. Dabney or Mr. Orman to provide an overview of what Amendment 5 would mean administratively.

[2:18:46 PM](#)

MR. DABNEY replied that Representative Hannan made good points. Although this part of the statute has never been used and its removal was considered part of streamlining the process, he said he too can see where there could be potential in the future for the commissioner to want to take advantage of the flexibility that this current statute allows. While it hasn't ever been used before and may never be used, he allowed that if there were to be a situation where the commissioner would like to have that flexibility it would be good to have it there. He stated that keeping Representative Hannan's amendment would be acceptable to the department.

2:20:15 PM

REPRESENTATIVE RAUSCHER asked whether Amendment 5 would cause a fiscal note.

MR. DABNEY replied he would get back to the committee with an answer.

REPRESENTATIVE MCKAY said his understanding is that the buyer of the timber would pay for the contractor to do a study.

MR. DABNEY concurred with Representative McKay and therefore concluded that there would be no change in the fiscal note.

REPRESENTATIVE RAUSCHER noted that "may" and "shall" are two different words, and "may" is used here. He inquired whether it would raise the price of most of the contracts considering some of them may be reevaluated through a third-party contract.

MR. DABNEY answered he doesn't see where utilizing this part of the statute would impact what the market value would be of the timber sale. He said that, if utilized, he envisions this for the commissioner to better evaluate the financial and technical data related to the proposed sale, not the market value.

2:22:40 PM

REPRESENTATIVE HANNAN summarized her explanation of Amendment 5. She noted the administration doesn't think it would be a burdensome step, the commissioner would not be required to do this, and for local negotiated sales she speculates the commissioner will continue not needing this. But, she said, the bill is streamlining and talking about export sales being something Alaska's forests would be used for, and she wants to ensure those can be moved forward without a big ticket to the state to commercialize other timber.

2:23:18 PM

CHAIR PATKOTAK removed his objection to Amendment 5. There being no further objection, Amendment 5 was adopted.

2:23:29 PM

REPRESENTATIVE FIELDS moved to adopt Amendment 6, [labeled 32-GH1607\A.17, Radford, 4/17/21], which read:

Page 7, lines 17 - 18:

Delete "[TO A LOCAL MANUFACTURER OF WOOD PRODUCTS
OR A USER OF WOOD FIBER]"

Insert "to a local manufacturer of wood products
or a user of wood fiber"

2:23:32 PM

CHAIR PATKOTAK objected for purposes of discussion.

REPRESENTATIVE FIELDS said Amendment 6 would restore the export ban and explained his reasons for wanting to do this. He recounted that at its previous meeting the committee had a lot of discussion about local benefits and how local benefits are closely tied to local manufacturers, local firewood production, logs for homes, dimensional lumber. He further recounted that the committee also had some discussion about how it is easier to protect state interests when state people are doing the job and a little harder if there is, say, an Oregon company. He said a lot of Chinese colonialism has been seen driven by the communist party, and he has concerns about that looking at [Alaska's] resource wealth, particularly in Southeast Alaska. Harvesting, processing, and selling these resources in Alaska will guarantee there are public benefits that are consistent with Alaska's constitutional framework around resource production, he stated.

CHAIR PATKOTAK requested Mr. Dabney or Mr. Orman to provide an overview of what Amendment 6 would mean administratively.

2:24:45 PM

MR. DABNEY replied that one main point of HB 98 is to allow for export of negotiated sale. He said these negotiated sales are not designed to accommodate foreign purchasers but are designed to allow Alaska industry to sell all the timber it harvests. Some tree species and log sizes cannot be manufactured locally, such as hemlock and small diameter material. Particularly in Southeast Alaska, he continued, there is no market for that to be milled locally, and so parts of many [state timber] sales are already exported because that's what the local purchaser must do to sell the logs that it harvests.

2:26:40 PM

MR. ORMAN responded that in thinking holistically about HB 98, Amendment 6 would be returning language back to [AS 38.04.118].

However, he specified, HB 98 takes portions of negotiated sales that are currently in 38.05.115 and moves them to 118. Now in 115, as far as those small, negotiated sales, the only kind of strong restriction is no more than a certain amount of board feet within a one-year period; so that's the limitation in 115. [Under HB 98] those would be moved to 118 and then with Amendment 6 those small timber sales presumably that were in 115 now are going to have this additional restriction under 118. Mr. Orman further stated that there would be many other structural impacts legally from Amendment 6 that would then need to be considered and potentially addressed if this [language] was just added back in. It would be different if it were clear that 115 is going to remain unchanged from its current iteration; then essentially what is being done is now making 118 what it was before as well prior to this proposed amendment and leave 118 how it currently is, which is what seems to be the idea. But, he said, that's not what would necessarily happen if this amendment were made to 118 because of then the changes that have been made as far as 115. Those small timber sales in 115 that have been moved to 118 are now going to be changed, he stated, and the restrictions are going to change then with this amendment to 118 if the small timber sales stay in 118.

[2:28:44 PM](#)

REPRESENTATIVE FIELDS asked whether Ms. Radford of Legislative Legal Services, [and drafter of Amendment 6], is online.

CHAIR PATKOTAK answered that Legislative Legal Services is not online because HB 98 is a governor's bill. He explained that Legislative Legal Services wouldn't be online unless requested by committee members offering amendments.

REPRESENTATIVE FIELDS said he was asking because he is curious whether Ms. Radford would agree with the interpretation.

CHAIR PATKOTAK noted that the committee would be considering amendments again on Friday [4/23/21] and Representative Fields could reintroduce it then.

REPRESENTATIVE FIELDS stated that the intent with Amendment 6 is to remain with the status quo in terms of an export ban. He said he will go back to Ms. Radford and make sure the amendment has been drafted consistent with that.

CHAIR PATKOTAK said Amendment 6 would be considered again on Friday [4/23/21] pending follow-up.

2:30:00 PM

REPRESENTATIVE FIELDS moved to adopt Amendment 7, [labeled 32-GH1607\A.16, Radford, 4/17/21], which read:

Page 1, line 4:

Delete "AS 38.05.035(e) is amended"

Insert "AS 38.05.035 is amended by adding a new subsection"

Page 1, line 5:

Delete "(e) Upon"

Insert "(r) Notwithstanding (e) of this section, for parcels north of the latitude of Thompson Pass and west of Cook Inlet, upon"

Page 4, lines 23 - 25:

Delete all material and insert:

"(A) a contract for a negotiated sale of timber in an amount equal to or less than 500,000 board feet or equivalent other measure authorized under AS 38.05.118;"

Page 6, line 3:

Delete "by considering"

Insert ". For parcels north of the latitude of Thompson Pass and west of Cook Inlet, the commissioner shall consider"

Page 6, lines 11 - 25:

Delete all material.

Renumber the following bill sections accordingly.

Page 6, following line 26:

Insert a new subsection to read:

"(d) For parcels north of the latitude of Thompson Pass and west of Cook Inlet, for harvests of 20 acres or less or timber salvaged from land cleared for a nonforest use, the department may not permit the harvest of timber in a harvest unit until a site-specific forest land use plan has been adopted. A forest land use plan under this subsection may authorize timber harvests for multiple harvest units included in a timber sale contract. The department is

not required to adopt the forest land use plan before awarding a timber sale contract."

Reletter the following subsections accordingly.

Page 6, line 27:

Delete "A"

Insert "For parcels north of the latitude of Thompson Pass and west of Cook Inlet, a"

Page 6, line 30:

Delete "section"

Insert "subsection"

Page 7, line 1, following "AS 44.37.011,":

Insert "for parcels north of the latitude of Thompson Pass and west of Cook Inlet,"

Page 7, lines 3 - 26:

Delete all material and insert:

"* Sec. 4. AS 38.05.115 is amended by adding a new subsection to read:

(d) For parcels north of the latitude of Thompson Pass and west of Cook Inlet, the commissioner shall determine the timber to be sold and the limitations, conditions, and terms of sale. The limitations, conditions, and terms shall include the utilization, development, and maintenance of the sustained yield principle, subject to preference among other beneficial uses."

Renumber the following bill sections accordingly.

Page 7, line 27:

Delete "a new subsection"

Insert "new subsections"

Page 7, following line 27:

Insert new subsections to read:

"(d) Notwithstanding AS 38.05.120 and 38.05.123, for parcels north of the latitude of Thompson Pass and west of Cook Inlet, upon a finding that a sale is in the best interest of the state, the commissioner may negotiate a sale of timber at appraised value. The period of a contract for a sale of timber negotiated under this subsection may not exceed 25 years. The contract shall provide that the appraised value of

timber remaining to be harvested under the provisions of the contract shall be redetermined at least once every five years.

(e) Notice of intent to negotiate a contract authorized by (d) of this section for the sale of timber in an amount greater than 500,000 board feet or equivalent other measure shall be given in accordance with AS 38.05.945."

Reletter the following subsection accordingly.

Page 7, line 28:

Delete "Within"

Insert "For parcels north of the latitude of Thompson Pass and west of Cook Inlet, within"

Page 7, line 31, following "measure":

Insert "under this subsection"

Page 8, line 3:

Delete "AS 38.05.118 [AS 38.05.115]"

Insert "AS 38.05.115, 38.05.118,"

Page 8, line 6:

Delete "or"

Insert "and, for parcels north of the latitude of Thompson Pass and west of Cook Inlet, for"

Page 8, lines 18 - 28:

Delete all material and insert:

"* **Sec. 7.** AS 38.05.123 is amended by adding a new subsection to read:

(k) For parcels north of the latitude of Thompson Pass and west of Cook Inlet, the commissioner may negotiate a sale of timber under this section if the prospective purchaser agrees to use to the maximum extent commercially practicable the timber subject to the sale for the local manufacture of high value-added wood products. In evaluating proposals, the commissioner shall take into account the proposed manufacture of other value-added wood products to be produced under a negotiated contract."

Page 8, line 31:

Delete "AS 38.05.118 only [AS 38.05.115]"

Insert "AS 38.05.115 and 38.05.118 only"

Page 9, line 3:
Delete all material.

Renumber the following bill section accordingly.

2:30:00 PM

CHAIR PATKOTAK objected for purposes of discussion.

REPRESENTATIVE FIELDS explained why he is offering Amendment 7. He said that in listening to the discussion and reading public comments from Alaskans on HB 98, it seemed there was some support for the Interior of basically wood production in the Interior. He didn't see any support in the public comments from areas with marketable timber in the Prince William Sound region or in Southeast Alaska. So, there seems to be some real geographical differences in terms of people's perspective on this bill. He stated he therefore asked for an amendment to be drafted that would limit the geographic scope of this bill to the Interior where public support has been seen. He allowed he doesn't know if that is the best way to thread the needle in getting the benefits of this bill without some of the costs in fisheries, tourism, and so forth. He said he is interested in hearing from committee members. If this is an approach that members support, then he is happy to offer it and have a vote, and if not an approach members support, then he will withdraw it.

CHAIR PATKOTAK requested Mr. Dabney to provide an overview of what Amendment 7 would mean administratively.

2:31:23 PM

MR. DABNEY responded that HB 98 is a statewide bill, and an important main point of the bill is to allow negotiating timber sales that can be exported. This is predominantly a concern that would benefit Southeast Alaska purchasers, he said, and would allow more flexibility for the remaining companies of those purchasers in Southeast Alaska. He stated he doesn't believe Amendment 7 meets the intent of HB 98.

CHAIR PATKOTAK requested Mr. Orman to provide an overview of what Amendment 7 would mean administratively.

2:32:39 PM

MR. ORMAN responded that as he reads Amendment 7, the area limitation would apply to negotiated timber sales, which would be the [AS 38.05.115, 38.05.118, and 38.05.123] sales. There would be no area limitation for the [38.05.120] sales, which is the competitive bid sales and competitive bid process. He said that as he reads the amendment, although maybe this was not the intent, a disparity would be had in some ways between Southeast Alaska, and timber sales in Southeast Alaska, and ostensibly no negotiated timber sales within Southeast Alaska as pursuant to 115, 120, or 123, and yet those negotiated timber sales would be allowed in the Interior area. At its core that would create a disparity between timber markets and timber markets would be treated differently depending on their location, he stated. Southeast Alaska is only a competitive bid process, and the Interior is negotiated sales or competitive bid process potentially, which would create a problem. Mr. Orman posed a scenario in which it becomes an equal protection analysis and said the lowest level of scrutiny that the court would talk about would probably be a rational basis test. The question would then be: What would be the rational basis for timber markets and the timber industry in Southeast Alaska being treated differently than the timber market in the Interior? In general, that's probably the initial legal effect and legal problem, he advised. Mr. Orman then addressed page 2 of the amendment, lines 3-4, which state, "Page 6, following line 26: Insert a new subsection". He stated he thinks that new [subsection] might be problematic legally. He noted that the [proposed] new subsection states "for harvests of 20 acres or less" of timber "the department may not permit the harvest of timber in a harvest unit until a site-specific forest land use plan has been adopted." He said the language isn't clear about more and greater harvests, which may be a typo or error in some way. He advised that there is an error with that provision that [the drafter] might need to look at.

[2:35:50 PM](#)

REPRESENTATIVE RAUSCHER noted Amendment 7 is four pages and said he doesn't want to vote no, and he doesn't want to vote yes. Given how much information is in the amendment and given amendments will be taken up again, he stated he would like some time to study the amendment using the books of law. He said that if he must vote today, he will have to vote no.

[2:36:43 PM](#)

REPRESENTATIVE MCKAY asked how much timber sale volume, on a scale of 1-100, would be removed if Southeast Alaska is taken out of the bill.

MR. DABNEY responded that 100 percent of the volume that is subject to export at this time in the State of Alaska that the Division of Forestry has jurisdiction over is exported from Southeast Alaska. Currently, he said, none of the timber from timber sales in the rest of the state is exported, so the answer would be 100.

REPRESENTATIVE MCKAY concluded that if Amendment 7 were to pass, the whole purpose of HB 98 would basically be negated.

MR. DABNEY answered correct. He said one key point of the bill is to allow exporting negotiated timber sales, in Southeast Alaska in particular.

[2:38:48 PM](#)

REPRESENTATIVE FIELDS stated he is happy to give members time to review Amendment 7. He referred to a letter from Aurora Energy Solutions, an Interior company, which states HB 98 streamlines the timber sale process providing predictable timber harvests, so including pulp grade spruce materials and birch logs for firewood. He said he thinks there is also a letter from another Interior business in support of the bill. His intent with Amendment 7, he explained, was to get whatever efficiencies might be gained in local use, and it seems the Interior is most germane. He further explained his intent was to also get those areas where there might be the greatest conflicts in terms of tourism, fisheries, and so forth, which to oversimplify could be Southeast Alaska. He pointed out that Amendment 7 is written in such a way that it protects the ability to harvest in the Glenn Highway corridor in recognition that there could be some local use there. He expressed his interest in further input from committee members and added that he thinks HB 98 could be written potentially in a way that this is not necessary. However, Representative Fields continued, without perfecting amendments in terms of process he doesn't want some of Alaska's most valuable timber in Southeast to just go to China or Oregon.

[2:40:19 PM](#)

REPRESENTATIVE HOPKINS stated he appreciates Representative Fields' intent to target the Interior with Amendment 7, given the letters of support and the vastly different types of forest

in the Interior as opposed to Southeast Alaska. He asked whether using Thompson Pass and Cook Inlet would provide an adequate legal marker if Amendment 7 were adopted, or whether something more specific than landmarks is needed.

MR. ORMAN replied yes, but qualified that if moved forward this kind of amendment would probably need intent language. He said that if the idea is to treat harvests and timber in Southeast differently than the Interior, and just broadly try to say so through a general marker and boundary, which he thinks is the goal, there needs to then be an explanation for the intent as far as the rational basis for that. In his opinion looking at this as a drafter, this doesn't seem as though it's an issue like a park boundary, for example. For park boundaries, he explained, there must be clear identification of the lands that are included within the park boundary. This, however, is more a delineation of the areas where negotiated sales are going to be available versus those where competitive sales are going to be available. He therefore said he thinks a general description as provided here is probably sufficient because it's not so much setting aside land for something and doing so with specificity as much as trying to generally articulate an area and a distinction between two areas.

REPRESENTATIVE HOPKINS noted that different parts of Alaska are treated differently for oil and gas development: Middle Earth, Cook Inlet, and the North Slope. He said he is glad that Thompson Pass and Cook Inlet would work in this amendment.

[2:43:01 PM](#)

REPRESENTATIVE HANNAN inquired whether it is Representative Fields' intention that the Cook Inlet sales on Kenai Peninsula be lumped with Southeast Alaska, given the Kenai Peninsula is east of Cook Inlet and Thompson Pass kind of splits it.

REPRESENTATIVE FIELDS responded that given the geography of the state and the nature of the forests it isn't possible to have a simple latitude. He explained the intention was that the Glenn Highway corridor and areas north would be included, hence the Thompson Pass boundary; and that the Interior region around McGrath could potentially also be included because that forest ecosystem is more like the Interior. In the spirit of not excluding the broader McGrath/Yukon-Kuskokwim region, he said he wanted to reference west of Cook Inlet to include the west shore of Cook Inlet and everything west because he can see potentially a local sale for local production and use and potentially that

could be a good thing. He further explained that excluded from the streamlined provisions of HB 98 would be the Kenai Peninsula Borough, Prince William Sound, and all coastal Alaska stretching east to Representative Hannan's district and points southeast because, basically, there are more competing uses. He said he is sensitive to Mr. Orman's question about equal protection. However, he stated, there are different types of trees for different purposes. So, it's not really equal protection; it's different species used for different things in different regions. Therefore, he added, it makes sense to have different processes, which gets back to Representative Hopkins' point.

[2:45:19 PM](#)

CHAIR PATKOTAK stated the committee would consider Amendment 7 again on Friday [4/23/21].

[2:45:31 PM](#)

The committee took a brief at-ease at 2:45 p.m.

[2:46:22 PM](#)

REPRESENTATIVE CRONK moved to adopt Amendment 10, [labeled 32-GH1607\A.12, Radford, 4/13/21], which read:

Page 1, line 2, following "**sales;**":
Insert "**relating to emergency firefighters;**"

Page 8, following line 28:
Insert a new bill section to read:
"*** Sec. 11.** AS 41.15.030(b) is amended to read:

(b) The commissioner may hire emergency firefighting personnel, and shall establish classifications and rates of pay for the emergency firefighting personnel consistent with the compensation paid by other firefighting agencies. The commissioner may adjust the classifications and rates based on findings of the federal Bureau of Land Management for Alaska. The commissioner may assign emergency firefighting personnel to conduct fire suppression, hazard reduction, fire prevention, habitat restoration or improvement, and other related activities in emergency and nonemergency circumstances. The assignment of emergency firefighting personnel to nonemergency activities may not be used to replace permanent or seasonal state

employees. [THE COMMISSIONER MAY NOT USE APPROPRIATIONS TO THE DEPARTMENT FROM STATE GENERAL FUNDS FOR EMERGENCY FIREFIGHTING PERSONNEL ENGAGED IN NONEMERGENCY ACTIVITIES UNDER THIS SECTION.] "

Renumber the following bill sections accordingly.

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CHAIR PATKOTAK objected for purposes of discussion. He noted Representative Cronk and Representative Rauscher had proposed similar amendments and said either of them could explain what the amendment does.

REPRESENTATIVE CRONK spoke to Amendment 10. He stated that lack of consistent work for Alaska's emergency firefighter (EFF) crews has been an issue over the past years. These crews are extremely important to Interior villages, he said, as well as non-Interior villages like Hooper Bay. He explained there is a statute that prohibits the commissioner from using certain funds for EFF work, so Amendment 10 would hopefully create some steady employment opportunities for rural-based firefighting crews. This would strengthen local economies and family life and enhance the public safety in Alaska and [those places in] the Lower 48 that rely on these crews for assistance. He further stated that this proposal aligns with Governor Dunleavy's priorities to provide economic opportunities for Alaskans to enhance public safety and empower rural Alaskans in their response to manage the state's resources. He specified that Amendment 10 would allow the use of state general funds for emergency firefighter personnel engaged in non-emergency activities such as clearing out forests around villages, and prescribed work that would make Alaska's villages and towns much safer from wildfire. For example, if it is a rainy summer and firefighter crews aren't working, Amendment 10 would give them the opportunity to do these other things. Over the last 20 years, he continued, employment opportunities in the villages through the firefighting system have drastically decreased. Amendment 10 would provide a way for the department to use general funds to put crews to work during the summer.

CHAIR PATKOTAK requested Mr. Dabney provide an overview of what Amendment 10 would do administratively.

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MR. DABNEY answered that it would be very beneficial to be able to use general funds for non-emergency activities. He stated that currently emergency firefighters are essentially part-time workers during the fire season. Depending on how active the fire season is the firefighters may have a good season or a bad season - 2019 had lots of fires and was a good season for EFF, 2020 not many fires and so little opportunity for employment. He specified that Amendment 10 would enable the hiring of additional firefighters so [the department] could build back some of its capacity of firefighting crews. The primary responsibility of those crews would be to be prepared to work on active fires but when it is raining or is the shoulder season, those crews could perform hazardous fuels reduction around communities. He said this would increase [the department's] ability to protect communities, would increase employment in the state, and would increase the number of crews because if Alaskans see the ability to have full-time seasonal work as opposed to part-time seasonal work, then [the department] would get a lot more interest.

CHAIR PATKOTAK invited Mr. Orman to provide an overview of what Amendment 10 would do administratively.

[2:51:12 PM](#)

MR. ORMAN related that he researched the legislative history of AS 41.15.030, including some of the discussions from 1996 as well as the "Personnel Act" [AS 39.25]. He advised that there are no legal issues with Amendment 10 as far as removing that last sentence.

[2:51:52 PM](#)

REPRESENTATIVE SCHRAGE inquired whether from his historical research, Mr. Orman could provide any context as to what the thinking was for why that prohibition was put into place.

MR. ORMAN replied that in 1996 the discussion or the concern was pursuant to the "Personnel Act" and there was the lack of long-term non-permanent employees. So, he said, quite a bit of the language in AS 41.15.030(b) was added because of concerns about the "Personnel Act," some of which he believes were raised by the Department of Labor and Workforce Development. That last sentence was still part of that. He noted that there was also discussion in the minutes regarding potentially federal dollars or general fund dollars and those concerns, which don't really exist either. Mr. Orman further noted that changes were made to

the "Personnel Act" in 2000 which allow for long-term non-permanent employees. He offered his belief that the changes in 2000 cured in part the concerns that the legislature had in 1996 and as a result this can be removed because of those changes to the "Personnel Act."

REPRESENTATIVE SCHRAGE said he appreciates Amendment 10 and thinks it is a great idea.

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REPRESENTATIVE RAUSCHER noted that his amendment is identical to this one. He drew attention to the third sentence under subsection (b) of Amendment 10, which states: "The commissioner may assign emergency firefighting personnel to conduct fire suppression, hazard reduction, fire prevention, habitat restoration or improvement, and other related activities in emergency and nonemergency circumstances." He opined that this is more important than just being a jobs amendment because for decades the state has drifted away from doing preventative measures, and that is why he appreciates this amendment. Over the past decade, he related, he has heard firefighters complain that the state isn't doing preventative measures anymore, which is one reason why fires in Alaska get so large so quick.

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REPRESENTATIVE HOPKINS concurred with Representative Rauscher. He related that, as well, he learned about this type of language earlier in the session during a discussion with the Division of Forestry. He pointed out that last year in the Department of Natural Resources Budget Subcommittee, money was put forward in the budget for the first time in the state's history for fire prevention, such as fire breaks and land clearing, that would help eliminate the growth of some of these fires, although not on federal land. Some of the concerns [the division] had were not having the work for those clearings, and while [the division] would have gone through local contractors, this keeps the jobs even more localized to the villages and the regions that might be most impacted. This is a good amendment, he said, and he is interested in seeing the impacts going forward. He added that along with that first ever fire prevention money Amendment 10 is timely and good.

[2:56:13 PM](#)

REPRESENTATIVE HANNAN thanked Representative Cronk for bringing forward the amendment and said she supports the goal. She noted that when there is emergency firefighting there is a stream of money to pay for that, but this is nonemergency using general funds and most of HB 98 is about timber sales. She asked Mr. Dabney whether the mechanism to pay for the fire suppression activity would be out of timber sales or some other mechanism.

MR. DABNEY responded that for this nonemergency work it would depend on the activity. In this case, he explained, it would be general funds; so, as the general fund budget is available it would be used to pay for the additional days and weeks that these employees work. As mentioned by Representative Hopkins, the legislature authorized \$5 million to the Division of Forestry specifically for creation and maintenance of fuel breaks. That money will go a long way in having these men and women work in Alaska in the late spring, summer, and early fall.

REPRESENTATIVE HANNAN asked whether the \$5 million would give the Division of Forestry enough money this summer to execute firebreaks in a variety of locations around state forests. She further asked how that fund would be replenished. When the fund was first created in the budget, any dollar was a step forward because it had never been done before, she continued. Now the legislature is going to direct the division to use it in rural communities using nonemergency firefighters in their communities in a prevention strategy. She inquired whether she is correct in understanding that if \$5 million is spent this summer then next year the legislature will want to put in \$5 million more. She further inquired whether there is any mechanism that is an ongoing part of the Division of Forestry to both sell trees and fund [EFF personnel for nonemergency activities] to ensure protection of the state's assets.

MR. DABNEY offered his belief that the \$5 million [capital improvement plan (CIP)] has a five-year lifespan, so he anticipates the division would not spend all \$5 million this year, as well the division does not have the capacity to do that currently. He said there is millions of dollars' worth of need across Alaska, but it must be planned, and different mechanisms used such as contractors and employees. He concurred that a mechanism to ensure a replenishment of funding for this important work would be beneficial because after fuel breaks are created the vegetation grows back and therefore maintenance is needed every 10 years or so. Much of that maintenance, he added, is an example of where firefighters can do work by hand.

[3:01:44 PM](#)

REPRESENTATIVE RAUSCHER said he appreciates the representative's question but drew attention to subsection (b). He noted that [line 7] states the commissioner "may" hire emergency firefighting personnel and [lines 11-12] state the commissioner "may" assign emergency firefighting personnel. So, he said, if there is no funding at the time, it is not directing the commissioner to do this. Rather, it is saying the commissioner has the ability to do this if there is funding.

[3:02:25 PM](#)

REPRESENTATIVE FIELDS related that his wife's father was a smoke jumper for his entire career and her brother is a smoke jumper. He stated it is amazing how much the climate has changed and with it the profession. What used to be ground fires that could be fought by hand now are super storms that create their own weather and be deadly. He said Amendment 10 is a good idea, but the reality is that the state is going to spend a lot more money fighting fire regardless of whether it wants to and will have to more actively manage the landscape to prevent these super fires. He said Representative Hannan raises a good question, and it is a question he supports addressing, whether in this bill or otherwise. He offered his support for Amendment 10, the hiring of Alaskans to support the local economy, and looking further at how to do it structurally.

[3:03:42 PM](#)

CHAIR PATKOTAK removed his objection. There being no further objection, Amendment 10 was adopted.

[3:03:55 PM](#)

CHAIR PATKOTAK announced that HB 98 was held over.

[3:05:13 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:05 p.m.